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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/921,250	08/29/1997	YASUNORI INOUE	970813	9314

23850 7590 06/05/2002

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WASHINGTON, DC 20006

EXAMINER

GOUDREAU, GEORGE A

ART UNIT	PAPER NUMBER
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1763

DATE MAILED: 06/05/2002

22

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. <u>08-921,250</u>	Applicant(s) <u>Inoue et al</u>
Examiner <u>George Goudreau</u>	Group Art Unit <u>1763</u>

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 3-02' (e, - paper # 21)
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 3-14, 16-20, 22-27, 31 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☒ Claim(s) 5-6, 26-27, 31 is/are allowed.
- ☒ Claim(s) 3-4, 8-9, 11-14, 17, 19 is/are rejected.
- ☒ Claim(s) 7, 10, 16, 18, 20, 22-25 is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Applicant Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 19
- ☐ Notice of References Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

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15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

17. Claims 3, 8-9, 11-14, 17, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brennan et. al. as applied in paragraph 22 of the previous office action on the merits.

18. Claims 5-6, 26-27, and 31 are allowed.

19. Claims 7, 10, 16, 18, 20, and 22-25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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20. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

-Claim 4 recites that the second layer is a CVD SiO₂ layer while claim 8 upon which it depends recites that the second layer is comprised of SOG. Claim 4 conflicts with claim 8 upon which it depends.

21. Applicant's arguments filed 12-5-01' have been fully considered but they are not persuasive.

Applicant argues the following points regarding the examiner's rejection of their claimed subject matter.

-Applicant has discovered unexpected results related to the selective implantation of an SOG layer which is used together with a SiO₂ to planarize an ILD on wafer such that the implantation has the unexpected results of causing the SOG to cmp polish at substantially the same rate as the SiO₂ layer.

The examiner must disagree.

-In the claims rejected by the examiner, applicant has failed to claim their invention commensurate in scope with the showing of their unexpected results. Thus, applicant may not gain benefit to any claimed showing of unexpected results in these claims.

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22. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner George A. Goudreau whose telephone number is (703) -308-1915. The examiner can normally be reached on Monday through Friday from 9:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Examiner Gregory Mills, can be reached on (703) -308-1633. The appropriate fax phone number for the organization where this application or proceeding is assigned is (703) -306-3186.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) -308-0661.

A handwritten signature in black ink, appearing to read "Goudreau".

George A. Goudreau/gag

Primary Examiner

AU 1763